THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.27368 of 2006

Dated:17.01.2007

Between:

Bonamukkala Subba Reddy.

…Petitioner

and

The Revenue Divisional Officer, Kavali.

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.27368 of 2006

ORDER:

The petitioner herein filed a suit, being O.S.No.174 of 1995, on the file of the Court of the Principal District Munsif, Kavali, against Potturu Polaiah and others seeking a decree of perpetual injunction restraining them from interfering with the land admeasuring Acs.9.00 in Survey No.784 situated at Saipet Village of Kondapuram Mandal in Nellore District. In the said suit the land in Survey No.784 was described as item No.2. The Court of the Principal District Munsif, Kavali, decreed the suit, aggrieved by which, the defendants therein preferred A.S.No.32 of 2001 on the file of the Court of the Senior Civil Judge, Kavali. The appeal was allowed, against which, the petitioner herein preferred S.A.No.656 of 2005. This Court while admitting the Second Appeal passed orders granting injunction in S.A.M.P.No.1299 of 2005, dated 22.06.2005, which is still in force. The respondent was approached by the defendants in the suit, pursuant to which, the respondent issued a notice on 23.09.2006, calling upon the petitioner to be present before him on 06.10.2006 with all the necessary documents, aggrieved by which, the petitioner filed this Writ Petition on 29.12.2006 seeking a writ of mandamus declaring the action of the respondent in proceeding to conduct enquiry as illegal and arbitrary.

As rightly submitted by the learned Counsel for the petitioner, when the matter is *sub judice* before this Court, any enquiry by the revenue authority is not called for. However, the learned Assistant Government Pleader submits that the Revenue Divisional Officer is not conducting any enquiry into the questions of title, that only for the purpose of verification the notice was issued, and that on 06.10.2006, the petitioner did not appear. Therefore, instead of keeping the matter pending, the petitioner is given liberty to produce a copy of the injunction order passed by this Court in S.A.M.P.No.1299 of 2005 in S.A.No.656 of 2005, before the respondent along with a representation. After

that, the respondent may take necessary action after hearing the petitioner and others. Be it made clear that the respondent is not competent to decide the questions of title, especially, when the matter is pending in this Court in S.A.No.656 of 2005.

The Writ Petition is accordingly disposed of. No costs.

_____

(V.V.S.RAO, J)

17.01.2007

Note: Issue C.C by 19.01.2007.

B/o.

vs